

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BENEDICT R. GENCO,

Plaintiff,

v.

17-CV-1168V(R)
DECISION AND ORDER

STARPOINT CENTRAL SCHOOL
DISTRICT BOARD OF EDUCATION,

Defendant.

On November 15, 2017, the plaintiff commenced this action. Docket Item 1.

On December 21, 2017, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 11. On December 20, 2017, the defendant moved to dismiss, Docket Item 9; on January 18, 2018, the plaintiff responded, Docket Item 13; and on February 19, 2018, the defendant replied, Docket Item 17. On March 7, 2018, the defendant moved for a permanent injunction, Docket Item 18; and on March 27, 2018, the plaintiff responded, Docket Item 19. On June 4, 2018, Judge Roemer issued a Report and Recommendation (“R&R”), finding that the defendant’s motions to dismiss and for a permanent injunction should be denied. Docket Item 26. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge’s

recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to deny the defendant's motions to dismiss and for a permanent injunction.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 9, is DENIED; the defendant's motion for a permanent injunction, Docket Item 18, is DENIED; and the case is referred back to Judge Roemer for further proceedings consistent with the referral order of December 21, 2017, Docket Item 11.

SO ORDERED.

Dated: August 10, 2018
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE